

Approved _____
Date _____

MINUTES OF THE Senate COMMITTEE ON Energy and Natural Resources

The meeting was called to order by Senator Ross Doyen at _____
Chairperson

8:05 a.m./p.m. on March 21, 1990 in room 423-S of the Capitol.

All members were present except: All present

Committee staff present:

Raney Gilliland, Legislative Research Department
Don Hayward, Revisor of Statutes
Pat Mah, Legislative Research Department
Lila McClafin, Committee Secretary

Conferees appearing before the committee:

Representative Max Moomaw, District 117
Representative Gayle Mollenkamp, District 118
Glenn Rockers, Hays, Ks.
Dr. Mike Nelson, Fort Hays State University
Rex Buchanan, Kansas Geological Society

The Chairman opened the hearing on HB 2341-relating to commercial fossil hunters; requiring such individuals to obtain written authorizations from landowners prior to going upon the land to search for fossils and prior to removal of fossils from the land; providing penalties for violations. He called on Rep Moomaw a co-sponsor of the bill.

Representative Moomaw presented written testimony in support of HB 2341 (Attachment I).

Representative Mollenkamp co-sponsor of the bill testified and presented written testimony in support of HB 2341 (Attachment II).

Glenn Rockers owner of PaleoSearch, a company that prepares and markets Kansas fossils testified in opposition to HB 2341 (Attachment III).

Dr. Nelson an academic geologist currently teaching at Fort Hays State University and also representing the Society of Vertebrate Paleontology testified in behalf of HB 2341 (Attachment IV). He responded to questions on the geological report and he suggested the Kansas Geological Survey be used for granting the permits on land owned by the state.

Rex Buchanan responded to questions regarding the Kansas Geological Society issuing the permits, and he stated he thought this could be work out, however they have never been a regulatory agency.

The meeting adjourned at 8:49 a.m., and the next meeting will be on March 27, 1990.

1990 SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

Date 3/21/1990

PLEASE PRINT

GUEST LIST

NAME

Glenn F. Rockers

REPRESENTING

PALEOSEARCH

STATE OF KANSAS

MAX MOOMAW
ASSISTANT MAJORITY LEADER
REPRESENTATIVE, 117TH DISTRICT
HODGEMAN, LANE AND
PARTS OF FINNEY AND
NESS COUNTIES
R.R. 2, BOX 45
DIGHTON, KANSAS 67839-9801



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
MEMBER: APPROPRIATIONS
JUDICIARY
LEGISLATIVE POST AUDIT
CALENDAR AND PRINTING
CHAIRMAN: MAJORITY PARTY CAUCUS

TO: Senator Ross Doyen, Chairman
Senate Energy and Natural Resources Committee

FROM: Representative Max Moomaw

RE: House Bill 2341

DATE: March 21, 1990

Thank you Mr. Chairman and members of the committee.

The chalk beds in western Kansas contain fossils that range in age from several thousand years to more than 100 million years old. These chalk beds hold specimens from the dinosaur age to the ice age. This area is one of the prime collecting areas of the world. Japan is one of the strong bidders for fossils. These fossils can be worth a lot of money. For example, a complete mosasaur can be worth from \$30,000 to \$50,000 depending on the condition of the fossil.

In recent years a controversy has developed between landowners and commercial fossil hunters. The landowners say the commercial fossil hunters in some cases have not told the farmer that they collect fossils to sell and that these fossils may be of great value. For example, one commercial collector told a landowner he collected for exercise and as a hobby. The landowner was not happy, to say the least, when he discovered that the collector was making money from the sale of fossils. I have no problem with people collecting and selling fossils as long as the landowner knows their intentions and as long as the landowner has an opportunity to participate in the proceeds of the sale of these fossils.

attachment I
E+NR
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Senator Ross Doyen, Chairman
Senate Energy and Natural Resources Committee
March 21, 1990
Page Two

House Bill 2341 requires a commercial fossil hunter to have written permission from the landowner to search for fossils. That written permission shall state that the landowner has been informed that the commercial hunter intends to sell the fossils. H.B. 2341 requires the commercial fossil hunter to provide a description of the fossil and must have the landowner's written permission to remove the fossil. I do not believe H.B. 2341 will limit the opportunity of 4-H members or people such as sharks' teeth hunters or geology clubs to continue to pursue those activities.

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GAYLE MOLLENKAMP
 REPRESENTATIVE, 118TH DISTRICT
 LOGAN, GOVE, TREGO, GRAHAM,
 WALLACE AND PARTS OF WICHITA AND
 ROOKS COUNTIES
 HC2, BOX 5
 RUSSELL SPRINGS, KANSAS 67755-0005



TOPEKA

HOUSE OF
 REPRESENTATIVES

COMMITTEE ASSIGNMENTS
 MEMBER: AGRICULTURE AND SMALL BUSINESS
 ENERGY AND NATURAL RESOURCES
 LOCAL GOVERNMENT

TESTIMONY SENATE ENERGY & NATURAL RESOURCES COMMITTEE

Thank you, Mr. Chairman and Members of this Committee, for allowing me to appear before you today in behalf of HB 2341.

I live and own grass land in the heart of what is known as fossil country in Western Kansas, Logan, Gove and Trego Counties. I have never refused anyone who came and requested permission to hunt fossils on my property who identified themselves and stated what would become of the fossils if found. Archaeology classes from universities across the United States have scheduled field trips in the area.

During the last several years, interest has been growing in the field of fossil hunting. The landowners are becoming aware that people out hunting fossils are not just out on Sunday afternoon to enjoy the fresh air and scenery; it is a lucrative business. I feel the property owner has the right to know what has been found and if it is going to be sold, should share in some way. Oil and gas leases allow for sharing, farm leases allow for landlord sharing; why not fossils? I support HB 2341. I ask you to give it your serious consideration.

I will stand for questions.

Gayle Mollenkamp

Attachment II
 E & NR
 3/21/1990

TESTIMONY

RE: House Bill No. 2341

By: Glenn F. Rockers
P.O. Box 621
307 W. 32nd Street
Hays, Kansas 67601
913-625-2245

MR. CHAIRMAN, and members of the committee, I would like to thank you today for the opportunity to testify my opposition to House Bill No. 2341. My name is Glenn Rockers, I live in Hays, Kansas, and I own and operate a business called PaleoSearch. My company collects, prepares and markets Kansas fossils.

Last year when I testified in front of this committee, one of the Senators ask me a very poignant question. He said, "Mr. Rockers, if I understand your testimony on House Bill No. 2341, I get the impression that it will help you more than it will hurt you." At that time, I agreed with him, and now, after talking with the landowners of western Kansas, I agree even more.

Please recall that last year the author of this bill testified that House Bill No. 2341 would not affect amateur fossil collectors, student field trips, 4-H Clubs or scientific or museum expeditions. He also testified that he was unsure who the bill would actually regulate. When asked if arrowhead collectors would be regulated under this bill, he replied that they would. This is incorrect. There is confusion as to who the bill will regulate and I assure you that there is uncertainty and confusion on who will be affected by this proposed law.

I am already seeing the negative effects. Amateur collectors and students are already being denied access to fossil collecting areas. The hype and publicity that this proposed bill has created has already caused many landowners to become very cautious. They do not want to see amateur fossil collectors, 4-H Clubs, students and museum expeditions on their land. They are very intelligent agri-businessmen who do not give away their valuable oil, cattle or wheat and I assure you they have no intention of giving away their fossils. Who the landowner wants to see is me, the commercial fossil collector, because I pay for fossils. This proposed bill is already limiting access to very important educational and scientific collecting areas in western Kansas. This proposed bill is already affecting the innocent people who the author said it would not affect.

If House Bill No. 2341 becomes law it will accomplish very little of it's original intentions. It will accomplish two things, which is create additional paperwork for me and my company and, unfortunately, it will solidify the nebulous misconception that all fossils have monetary value. Some fossils do, however the

attachment III
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vast majority do not. Some fossils have priceless scientific value and yet very little monetary value. Do we want to keep those fossils from being collected and studied? If this bill becomes law, it will make a statement that all fossils have value and only people willing to pay for that value will be able to collect fossils, and that is not right.

As President of the American Association of Paleontological Suppliers, I am morally and ethically obligated to fight proposed legislation that is contrary to the organization's objectives. This trade organization has over 50 members, nationwide, and the purpose of our organization is to strengthen the ties between the scientific community and commercial collectors in order to advance research and education in and about the field of paleontology. Education is the key word in this statement. If this bill passes it could eventually stop all educational and research activities in western Kansas.

Now, as a native Kansan, landowner, registered voter and taxpayer, I would like to ask a rhetorical question. Why did the Director of the Kansas Geological Survey testify to the House Committee last year that he liked House Bill No. 2341 and that he thought it was a good place to start, when at that very time, he had available a very comprehensive study, researched and published by his own department, which contains a very logical and workable solution to this issue. This study contains recommendations on how to regulate amateur, commercial and scientific fossil collecting.

The Kansas Geological Survey Open-file Report No. 89-5, dated January 18, 1989, was bought and paid for by the Kansas taxpayers and was published prior to the testimony of the Kansas Geological Survey Director, yet it was never mentioned. This report recommends that Kansas should adopt the guidelines set forth in the National Academy of Sciences study. Every major federal, state and scientific agency agrees with these recommendations. The majority of the scientific societies and organizations endorse the National Academy of Sciences recommendations regarding commercial fossil collecting on private land.

The federal government is encouraging states to adopt these regulations and guidelines so as to create a uniform nationwide policy. The federal government published 243 pages on this issue, the Kansas Geological Society published 86 pages on this issue, and House Bill No. 2341 is only one page long. This proposed bill does not begin to address the complexities of this issue.

Thirty-two years ago, when I was a page downstairs in chambers, I learned a very important lesson, one that I have not forgotten. The Senate passes quality legislation and traditionally is the watch-dog of House bills. House Bill No. 2341 is a "Shot-in-the-dark" and a classic example of "the squeaky wheel getting the grease".

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Testimony
Glenn F. Rockers
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House Bill No. 2341 is not quality legislation. If the State would adopt the recommendations of the National Academy of Sciences study, which it's own Geological Survey recommends and supports, that would be quality legislation.

Sincerely,

A handwritten signature in cursive script that reads "Glenn F. Rockers". The signature is written in dark ink and is positioned to the right of the typed name.

Glenn F. Rockers

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March 20, 1990

Dr. Michael E. Nelson
Professor and Chairman
Department of Earth Sciences
Fort Hays State University
Hays, KS 67601-4099
913-628-5389

3307 Lincoln Dr.
Hays, KS 676061
913-625-2078

Members of the Kansas Senate Energy and Natural Resources
Committee.

I am an academic geologist currently teaching at Fort Hays State University. I also represent the Society of Vertebrate Paleontology. The Society is the principal scientific organization representing the nation's vertebrate paleontologists, with a membership of over 1400 individuals. The organization includes among its members the nation's foremost professional paleontologists in museums, universities, and colleges throughout the United States. Because of this expertise, the Society can speak with authority on the conservation of the nation's fossil vertebrate resources on public and private lands.

The Society is currently involved in negotiations with federal land-management agencies to develop a viable program for the management of the nation's fossil resources. One major point of the Society's program is to indicate that commercial collecting and sale of fossil vertebrates is a serious impediment to the preservation of those important natural resources. Many very valuable specimens have been lost to science, and to the

Attachment IV
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general public, by unauthorized, and often, illegal collecting. We are especially concerned with commercial collecting on lands owned by the State of Kansas. Fossils collected from these lands must be repositied in a museum recognized by the Society. Once repositied, these fossils will be the property of the State of Kansas and they may be seen by visitors and studied by any scientist.

The federal land-management agencies, such as the Bureau of Land Management and the U.S. Forest Service, are now working to protect these valuable, non-renewable resources. Kansans should also protect and preserve for posterity the natural resources within their boundaries.

The Society also supports a ban on the collection of important fossils, especially vertebrate fossils, from private lands. However, we recognize that regulation of resources on private land is somewhat difficult. Therefore, we would like to propose at least minimal protection, such as stated in House Bill 2341.

Many commercial collectors remove fossils from land without informing the landowner that these fossils will be sold to the highest bidder for personal profit. Such fossils are frequently sold overseas to private collectors in Japan and Europe for exorbitant sums that inflate the market for such objects. Legitimate scientific institutions such as public museums, colleges, and universities thus lose access to important resource materials that should be conserved and studied by scientists in the United States. Many academic museums are awaiting the result of a lawsuit filed in the State of New York (Newsweek, 25

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December 1989, p.59). A new Jersey man recently sued The American Museum of Natural History in New York to recover a 175 million-year-old fossil he gave to the museum almost 30 years ago. He claims the fossil is worth 15 million dollars. Kansas museums such as the Sternberg Memorial Museum can not afford to get in bidding wars with commercial collectors.

This unfortunate situation occurs at the present time in western Kansas. The scientifically important fossils from the world-famous Kansas chalk beds and from the Ogallala Formation are presently exploited by commercial collectors. Landowners often are unaware that commercial collectors will sell these fossils at great profit, and consequently that these same fossils are then lost not only to science, but to future generations of museum visitors.

Kansas chalk fossils are turning up in the corporate boardrooms of Japan, in private fossil collections in West Germany, and are supplied by interior decorators for the mantelpieces of wealthy American collectors as attractive curiosities. These items are lost forever to the citizens of Kansas.

The professional scientists who routinely work with such fossils in our nation's museums, colleges, and universities recognize the need to ban commercial collecting. The membership of the Society has voted to oppose commercial collecting of vertebrate fossils both at their 1988 national meeting in Drumheller, Alberta, and their 1989 meeting at Austin, Texas. In 1990, the Society will hold its national meeting in Lawrence at the University of Kansas, and will have a strong interest in the

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outcome of this issue in the Kansas legislature. We ask your support for Kansas House Bill No. 2341.

I would also like to comment on specific parts of the bill:

(2) "FOSSIL" MEANS ANY IMPRESSION OR TRACE OF AN ANIMAL OR PLANT OF A PAST GEOLOGICAL AGE PRESERVED IN THE EARTH'S CRUST - A fossil is a paleontological object and does not refer to archaeological specimens. There are other laws that regulate the collection of archaeological remains.

(3) "LANDOWNER" MEANS THE RECORD OWNER OF THE FEE IN REAL ESTATE - This includes lands owned by the State of Kansas.

3b. NO COMMERCIAL FOSSIL HUNTER SHALL GO UPON THE LAND OF ANOTHER IN SEARCH OF FOSSILS UNLESS THE COMMERCIAL FOSSIL HUNTER HAS OBTAINED THE WRITTEN AUTHORIZATION OF THE LANDOWNER... I interpret this statement as implying a permitting system for state-owned lands. I would also like to further suggest that the Kansas Geological Survey be given regulatory powers to implement the permitting system.

In summary, I, and the Society of Vertebrate Paleontology, strongly endorse the passage of House Bill No. 2341.

Paleontological resources are very important to the scientific community as well as to the general public. We would like for these resources to be preserved for this and future generations.

Thank you.

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